



BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XZ28

Marine Mammals; Subsistence Taking of Northern Fur Seals; St. Paul Island

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice and request for comments.

SUMMARY: NMFS announces the receipt of a petition for rulemaking under the Administrative Procedure Act (APA). The Pribilof Island Community of St. Paul Island, Aleut Community of St. Paul Island-Tribal Government (St. Paul) petitioned NMFS to revise regulations governing the subsistence taking of northern fur seals on St. Paul Island. St. Paul's petition requests that NMFS revise the regulations to allow residents of St. Paul, Alaska to: take male young of the year (less than 1 year old) fur seals; take a total of up to 3,000 fur seals annually compared to 2,000 currently allowed, including up to 1,500 male young of the year and up to 1,500 sub-adult (1-4 years old) males; hunt or harvest fur seals during a total of 329 days annually, rather than the 47-day harvest season provided for under existing regulations; and take fur seals with firearms, in addition to harvesting (the current method of herding, stunning, and immediate exsanguination, which is allowed under existing regulations). NMFS solicits public comment on all aspects of this request.

DATES: Written comments must be received at the appropriate address or fax number by [insert date 60 days after date of publication in the FEDERAL REGISTER].

ADDRESSES: Send comments to Jon Kurland, Assistant Regional Administrator for Protected

Resources, Alaska Region, Attn: Ellen Sebastian. You may submit comments, identified by FDMS Docket Number NOAA–NMFS–2012-0038, by any one of the following methods:

- Electronic Submission: Submit all electronic public comments via the Federal e-Rulemaking Portal www.regulations.gov. To submit comments via the e-Rulemaking Portal, first click the “submit a comment” icon, then enter NOAA–NMFS–2012-0038 in the keyword search. Locate the document you wish to comment on from the resulting list and click on the “Submit a Comment” icon on the right of that line.
- Mail: Submit written comments to P.O. Box 21668, Juneau, AK 99802.
- Fax: 907–586–7557.
- Hand Delivery to the Federal Building: 709 West 9th Street, Room 420A, Juneau, AK.

Instructions: Comments must be submitted by one of the above methods to ensure that the comments are received, documented, and considered by NMFS. Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered. All comments received are a part of the public record and will generally be posted for public viewing on www.regulations.gov without change. All personal identifying information (e.g., name, address, etc.) submitted voluntarily by the sender will be publicly accessible. Do not submit confidential business information, or otherwise sensitive or protected information. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word or Excel, WordPerfect, or Adobe PDF file formats only.

Information related to the request for rulemaking is available on the Internet at the following address: <http://www.alaskafisheries.noaa.gov/protectedresources/seals/fur.htm>.

FOR FURTHER INFORMATION CONTACT: Michael Williams, (907) 271-5006, email Michael.Williams@noaa.gov; Jon Kurland, (907) 586-7235, email Jon.Kurland@noaa.gov; or Shannon Bettridge, (301) 427-8402, email Shannon.Bettridge@noaa.gov.

SUPPLEMENTARY INFORMATION: The subsistence harvest of northern fur seals on the Pribilof Islands is governed by regulations at 50 CFR 216.71-.74 established under the Fur Seal Act (FSA) 16 U.C.C. 1511 et seq., and Marine Mammal Protection Act (MMPA) 16 U.S.C. 1361 et seq. The regulations impose a variety of restrictions on the harvest of fur seals on St. Paul Island. The regulations (1) establish a 47-day period between June 23 and August 8 of each year during which fur seals may be taken for subsistence purposes; (2) limit the harvest of sub-adult male fur seals to those less than 124.5 cm in length (i.e., ≤ 4 years old); (3) identify specific hauling grounds from which fur seals may be taken and provide that no hauling ground on St. Paul may be harvested more than once per week; (4) require that NMFS receive adequate advance notice of scheduled harvest activities to enable NMFS to monitor the harvest; (5) and require NMFS to publish triennially a summary of the harvest during the preceding three years and the estimated subsistence needs for the next three years (71 FR 8222; 73 FR 49616; 77 FR 6682). The harvest regulations additionally state (50 CFR 216.72(c)(2)): No fur seal may be taken except by experienced sealers using the traditional harvesting methods, including stunning followed immediately by exsanguination. The harvesting method shall include organized drives of sub-adult males to killing fields unless it is determined by the NMFS representatives, in consultation with the Pribilovians conducting the harvest, that alternative methods will not result in increased disturbance to the rookery or the increased accidental take of female seals.

St. Paul submitted a resolution on February 16, 2007, requesting that NMFS change the regulations to allow a harvest that St. Paul asserts better fits the scope and duration of their

customary and traditional seal harvests and to allow hunting with firearms that St. Paul asserts will better meet their changing subsistence needs. NMFS considers this resolution, together with subsequent letters and documents submitted in the past few years by St. Paul, to be a petition for rulemaking under the APA.

The St. Paul petition states that the subsistence harvest methods currently authorized by NMFS were developed to transition from a commercial harvest to a subsistence harvest and no longer accommodate the community's changing subsistence needs. The petition further suggests that the subsistence harvest methods currently authorized do not reflect the customary and traditional practices of harvesting young of the year (i.e., less than one year old) fur seals and hunting male fur seals of various ages. The current method, hereafter referred to as "harvest," involves organized herding and driving of groups of sub-adult male fur seals from the hauling grounds to the killing fields, where they are taken by harvesters who come in close proximity with the seals before taking them. By contrast, "hunting" refers to an individual shooting with a firearm specific fur seals from some distance while the seals occupy the hauling (or breeding) grounds.

St. Paul's petition requests that NMFS establish separate seasons during which residents may hunt and harvest fur seals. St. Paul's petition recognizes three different age classes of sub-adult male fur seals: young of the year (animals less than one year old); yearlings (one-year old animals); and sub-adults (animals between 2 and 4 years old). St. Paul requested that NMFS modify its regulations to allow:

- (1) take by harvesting and individual hunting of up to 1,500 young of the year male fur seals annually from August 25 to December 31, of which no more than 10% may be composed of incidental take of female young of the year;

- (2) take by harvesting and hunting with firearms of up to 1,500 sub-adult (i.e., 1 – 4 year-old) male fur seals annually in the following St. Paul hauling grounds : Reef, Gorbach, Morjovi, Sea Lion Neck, Vostochni, Big Zapadni, Little Zapadni, Zapadni Reef, Tolstoi, Polovina, Lukanin, and Ketovi;
- (3) take by firearms sub-adult males at Sea Lion Neck beginning September 1 through June 1 of each year and from October 15 through June 1 at the following hauling grounds: Reef, Gorbach, Morjovi, Vostochni, Big Zapadni, Little Zapadni, Zapadni Reef, Tolstoi, Polovina, Lukanin, and Ketovi;
- (4) extension of the current annual harvest period for all sub-adult males by two days (from June 23 - August 8 to June 23 - August 10) and an additional harvest period for sub-adult males from September 15 to October 31; and
- (5) St. Paul residents to individually hunt young of the year fur seals with firearms no larger than .22 caliber and a minimum of .22 caliber to take sub-adult males.

Taking outside the June 23 to August 8 season, taking of adult or young of the year fur seals, and the intentional taking of sub-adult female fur seals are all prohibited under the current regulations.

St. Paul requests that NMFS authorize the hunting and harvesting of young of the year and sub-adult male fur seals during the specified seasons at any of the following hauling grounds: Reef, Gorbach, Morjovi, Sea Lion Neck, Vostochni, Big Zapadni, Little Zapadni, Zapadni Reef, Tolstoi, Polovina, Lukanin, and Ketovi. The current regulations allow fur seals to be harvested in all of these hauling grounds. St. Paul's intent in describing these subsistence use areas was to clarify ambiguity in the current regulations which use a combination of regional fur seal breeding area names (e.g., Northeast Point) along with individually-named breeding areas

(e.g., Kitovi). St. Paul intends for the regulations to employ the locally-used seasonal subsistence place names for those places where northern fur seals may be harvested under the regulations. According to St. Paul, a separate spring hunt and fall hunt and harvest season at the above hauling grounds would better meet the community's customary and traditional use of the northern fur seal. These changes are summarized in Table 1.

	Current Regulations	Petitioned Changes	
Subsistence method	Coordinated Harvesting Crew	Coordinated Harvesting Crew	Individuals Hunting with Firearms
Season for Young-of-the-Year (<1 year old) males	None	Aug. 25 - Dec. 31	Aug. 25 - Dec. 31
Annual Number of Young-of-the-Year (<1 year old) males	0	1,500 including both methods	
Season for Sub-adult (1 - 4 year old) males	June 23 - Aug. 8	June 23 - Aug. 10 Sept. 15 - Oct. 31	Sept. 1 - June 1 (Sea Lion Neck) Oct. 15 - June 1 (other specified hauling ground locations)
Annual Number of Sub-adult (1 - 4 year old) males	1,645 - 2,000 (for 2011-2013)	1,500 Including both methods	
Total open period	47 days	178 days	281 days

Table 1. Requested modifications of the northern fur seal harvesting regulations as compared to existing regulations.

NMFS is uncertain about the frequency of young of the year and yearlings occupying hauling grounds, rather than breeding areas, during the time of year proposed for taking by St. Paul. It is also uncertain whether hunters would consider young of the year and yearlings more available and accessible on the specified hauling grounds than breeding grounds.

Each of the St. Paul's named hauling grounds has an associated breeding ground. Adult, sub-adult, and young of the year fur seals alter their use of hauling grounds and breeding grounds as the season progresses, largely as a result of the departure of territorial adult males beginning in August and the onset of strong storms later in the autumn. As a result, in late summer the distinction between hauling grounds and breeding grounds becomes unclear.

Moreover, NMFS scientists have determined the vast majority of yearlings do not return to land and instead remain at sea. On rare occasions during the autumn yearling fur seals can be found on the Pribilof Islands but are not considered a significant part of the population on land until they are two years old. The current timing restriction results in exclusion of yearlings from the harvest, as few if any are found on land until well after the end of the subsistence harvest season (August 8). St. Paul's request to take fur seals in September-December will likely result in the taking of yearlings and therefore this separate age class can be grouped into the sub-adult category for the purposes of the petition. NMFS has not previously considered the taking of yearlings in prior harvest assessments.

The Assistant Administrator for Fisheries, NOAA, has determined that the petition contains enough information to warrant consideration of the requests. NMFS solicits public comment on St. Paul's request to modify regulations that govern the taking of fur seals for

subsistence purposes by residents of St. Paul Island.

NMFS is particularly interested in information that would improve NMFS's evaluation of the effects on the fur seal population of:

- (1) extension of the current 47-day harvest season to a 178-day harvest season and creation of an additional 281-day individual hunting season with firearms;
- (2) increased lethal takes of adult and sub-adult females by hunters due to the difficulty of distinguishing young male from young female fur seals at a distance;
- (3) increased human presence on the hauling grounds and breeding grounds throughout the year and resultant harassment of fur seals; and
- (4) seals wounded, but not lethally taken, by hunters using firearms.

NMFS is also interested in information regarding the extent to which young of the year occupy the hauling grounds as opposed to the breeding grounds. Finally, NMFS is interested in information that would improve our evaluation of the risk to field researchers studying fur seals, who may be present on or near these sites during hunting activities.

NMFS will consider public comments received in determining whether to proceed with any of the revisions of the regulations requested by St. Paul. Upon determining whether to initiate the requested or alternative rulemaking, the Assistant Administrator for Fisheries,

NOAA, will publish in the Federal Register a proposed rule or notice of the Agency's final disposition of St. Paul's petition.

Dated: July 9, 2012.

Alan D. Risenhoover,
Director, Office of Sustainable Fisheries,
performing the functions and duties of the
Deputy Assistant Administrator for Regulatory Programs,
National Marine Fisheries Service.

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